

**731            PROCEDURES FOR THE REVIEW OF APPLICATIONS FOR  
INITIAL SOLID WASTE FACILITY PERMITS AND THE  
ISSUANCE OF INTERIM OPERATING PERMITS**

- 731.1            Upon receipt of an application for a solid waste facility permit, the Director shall review the application for completeness.
- 731.2            The Director shall return an incomplete solid waste facility permit application and shall identify the specific portions of the application which require completion and give a date certain (not less than ten (10) days) by which the application must be completed. If the applicant does not complete the application within the time provided, the application shall be deemed to be withdrawn by the applicant. The Director shall return the application fee, less a three hundred dollars (\$300) processing charge within ninety (90) days of the applicant's failure to complete the application.
- 731.3            If an application was submitted on behalf of an existing facility on or before June 30, 1995, and the application meets the requirements for completeness in effect on that date, the Director shall do the following;
- (a)            Issue an interim operating permit to the facility; and
  - (b)            Publish a notice in the *District of Columbia Register* which shall contain the information described in §§ 730.3 (a) through (g).
- 731.4            No person may operate a solid waste facility under the authority of an interim operating permit unless the facility is in compliance with applicable environmental, health, safety, and zoning laws, rules, and regulations and has obtained all required permits, licenses, and certificates.
- 731.5            If an application for a new facility meets the requirement for completeness, the Director shall publish a notice in the *District of Columbia Register* which shall contain the information described in §§ 730.3 (a) through (g).
- 731.6            Public comments concerning an application shall be submitted in writing to the Director within sixty (60) days following publication of the notice required by §§ 731.3 and 731.5.
- 731.7            Before the issuance of an interim operating permit, the Director shall inspect the facility.
- 731.8            The Director shall circulate the notice required by §§ 731.3(b) and 731.5 to the Fire and Emergency Medical Services, the Department of Public Works, the Office of Tax and Revenue, the Zoning Commission, the Department of Public Health, and to any other District agency as the Director believes is necessary,

along with a request that the recipients inform the Director within forty-five (45) days whether the proposed or existing solid waste facility is in compliance with applicable environmental, health, safety, and zoning laws, rules, and regulations.

- 731.9 The Director shall send a copy of the notice provided for in §§ 731.3(b) and 731.5 to the Councilmember in whose ward the facility is or would be located and to the Advisory Neighborhood Commission whose area would be affected by the approval or denial of the application.
- 731.10 To be considered, the comments of the Councilmember in whose ward the facility is or would be located and the comments of the affected Advisory Neighborhood Commission shall be received by the Director sixty (60) days from the date the notice was sent. The Director shall accord great weight to timely comments submitted by the affected Advisory Neighborhood Commission.
- 731.11 The Director shall hold a public meeting to receive comments from the local community concerning the application, and the terms and conditions under which the facility should operate if the application is granted. A representative of the applicant shall do the following:
- (a) Attend the public meeting;
  - (b) Make an oral presentation; and
  - (c) Respond to questions.
- 731.12 If, upon review of an application, or of comments made by the public, a District agency, the Councilmember in whose ward the facility is or would be located, or the affected Advisory Neighborhood Commission, the Director determines that additional information is necessary in order to determine whether the application should be granted, the Director shall inform the applicant, in writing, of the information required, and shall specify the time within which the information must be submitted.
- 731.13 Applicants shall be given a minimum of ten (10) working days to submit the additional information requested pursuant to § 731.12.
- 731.14 Failure of the applicant to provide the additional information required by the Director within the time specified in § 731.13 shall result in the denial of the application.
- 731.15 The Director shall not grant an application for a solid waste facility permit unless the applicant proves that an existing facility meets, or that a proposed facility will meet, the following requirements:

- (a) The construction and operation of the solid waste facility shall be in full compliance with all applicable environmental, health, safety, and zoning laws, rules, and regulations;
- (b) The construction and operation of the solid waste facility shall not endanger human health, the public welfare, or the environment;
- (c) A certificate of occupancy has been issued for the facility which plainly describes the use of the facility as a solid waste handling facility, or such other description as may be required by the Zoning Commission or the Board of Zoning Adjustment, except that the Director shall not deny an application of an existing facility solely on the basis that there is no certificate of occupancy which satisfies this requirement, if the applicant proves that it has submitted an application for a certificate of occupancy which would satisfy this requirement and the application is pending before the zoning authority. If the Board of Zoning Adjustment determines not to allow the use, the Director shall revoke the interim operating permit and deny the application for a solid waste facility permit;
- (d) Areas where solid waste is or will be handled, deposited, placed, processed, or disposed, shall meet the following requirements:
  - (1) Be fully enclosed;
  - (2) Have impermeable floors;
  - (3) [Reserved]
  - (4) [Reserved]
  - (5) [Reserved]
  - (6) Be equipped with a ventilation system which meets the following minimum requirements:
    - (A) The ventilation system must draw outside air through windows, doors, truck bays and other building openings and subsequently exhaust it through a vent on the roof of the facility;
    - (B) The ventilation system must operate at a ventilation rate, cubic feet of air per minute, to ensure that outside air is drawn through windows, doors, truck bays and other building openings and subsequently exhausted through a vent on the roof of the facility;

- (C) The top of the ventilation vent must be at least six (6) feet above roof line or two feet (2 ft.) taller than any neighboring building within ten feet (10 ft.) of the solid waste facility; and
- (D) Air moving through the ventilation system shall move through air or dust collectors and other equipment necessary to remove particulate matter and malodorous by-products;
- (7) An existing facility applicant shall have ninety (90) days following the publication date of the Notice of Final Rulemaking for this section in the *D.C. Register* to meet the requirements of §§ 731.15(d) (3)-(6);
- (e) The proposed solid waste facility shall be constructed, or an existing facility shall be modified, so as to prevent disease vectors from entering the building through the facility's foundation, roof, exterior walls, doors, or conduits;
- (f) The insurance policies are valid and meet the requirements of § 730.3(v); and
- (g) An Environmental Mitigation - Closure Performance Bond has been issued to the solid waste facility pursuant to § 730.3(u).

731.16 If the Director determines that the applicant has met all the requirements set forth in § 731.15, the Director may issue a permit to the applicant.

731.17 If the Director determines that the application does not satisfy one or more of the requirements set forth in § 731.15, the Director shall provide the applicant with a proposed written decision denying the application which states the grounds for the denial, including a specific description of the condition, deficiency, or violation of law which furnished the basis of the denial.

731.18 At any time during the ninety-day (90) period following the issuance of the proposed decision, the applicant, without waiving its appeal rights, may provide the Director with written proof that the condition, deficiency or violation of law which was the basis of the denial has been cured. In the alternative, an existing facility may request the Director, in writing, to conduct a random inspection of the facility.

731.19 If the applicant has failed to submit the written proof or the written request for inspection referred to in § 731.18 within the time prescribed by that subsection, or if the Director finds, following a review of the written submission or an inspection of the solid waste facility, that the condition, deficiency, or violation of law which

furnished the basis of the denial has not been cured, the Director shall inform the applicant in writing that the denial of its application is final, advise the applicant of its right to a hearing under the Act, and shall refund ninety percent (90%) of the application fee.

731.20 If the Director determines that the condition, deficiency or violation of law which furnished the basis of the denial has been cured, the Director may grant the application.

731.21 An interim operating permit issued to an existing facility shall become invalid on the date on which the Director grants or denies the facility's application for a solid waste facility permit, unless it has been previously revoked pursuant to § 738.

SOURCE: Final Rulemaking published at 43 DCR 6816, 6820 (December 20, 1996); as amended by § 3(b) of the Department of Public Health Establishment Act of 1992, effective March 13, 1993 (D.C. Law 9-182; 39 DCR 8203 (November 13, 1992)); as amended by the Solid Waste Facility Permit Amendment Act of 2014, effective March 10, 2015 (D.C. Law 20-188; 61 DCR 12114 (November 28, 2014)).